

United States Postal Service

§ 955.9

own initiative raise the issue of its jurisdiction to proceed with a particular case.

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§ 955.7 Pleadings.

(a) *Appellant*. Within 45 days after receipt of notice of docketing of the appeal, the appellant shall file with the Board a complaint setting forth simple, concise and direct statements of each of its claims, alleging the basis, with appropriate reference to contract provisions, for each claim, and the dollar amount claimed, and shall serve the respondent with a copy. This pleading shall fulfill the generally recognized requirements of a complaint although no particular form or formality is required. Should the complaint not be filed within the time required, appellant's claim and notice of appeal may, if in the opinion of the Board the issues before the Board are sufficiently defined, be deemed to constitute the complaint and the respondent shall be so notified.

(b) *Respondent*. Within 30 days from receipt of said complaint, or the aforesaid notice from the Board, the respondent shall prepare and file with the Board an answer thereto, setting forth simple, concise, and direct statements of the respondent's defenses to each claim asserted by the appellant, and shall serve the appellant with a copy. This pleading shall fulfill the generally recognized requirements of an answer, and shall set forth any affirmative defenses or counterclaims as appropriate. Should the answer not be filed within the time required, the Board may, in its discretion, enter a general denial on behalf of the respondent, and the appellant shall be so notified.

(c) *Affirmative claims by the respondent*. Where an appellant has appealed an affirmative claim by the respondent asserted in a final decision by a Postal Service contracting officer, such as a termination for default or a Postal Service claim that a contractor owes the Postal Service money under a contract, the Board may order the respondent to file the complaint as described in § 955.7(a), and the appellant to file the answer as described in § 955.7(b).

EFFECTIVE DATE NOTE: At 76 FR 37660, June 28, 2011, § 955.7 was amended by revising paragraph (a), effective July 28, 2011. For the convenience of the user, the revised text is set forth as follows:

§ 955.7 Pleadings.

(a) *Appellant*. Within 45 days after receipt of notice of docketing of the appeal, the appellant shall file with the Board a complaint setting forth simple, concise and direct statements of each of its claims, alleging the basis, with appropriate reference to contract provisions, for each claim, and the dollar amount claimed, and shall serve the respondent with a copy. This pleading shall fulfill the generally recognized requirements of a complaint although no particular form or formality is required. Upon the appellant's request or on the Board's own initiative, the appellant's claim, notice of appeal or other document may be deemed to constitute the complaint if in the opinion of the Board the issues before the Board are sufficiently defined.

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§ 955.8 Amendments of pleadings or record.

(a) Upon its own initiative or upon application by a party, the Board may, in its discretion, order a party to submit a more definite statement of the complaint or answer, or to reply to an answer.

(b) When issues within the proper scope of an appeal, but not raised in the pleadings, have been raised without objection or with permission of the Board at a hearing or in record submissions, they may be treated in all respects as if they had been raised in the pleadings. If evidence is objected to at a hearing on the ground that it is not within the issues raised by the pleadings, in its discretion the Board may admit the evidence and grant the objecting party a continuance or other relief if necessary to enable it to meet such evidence.

§ 955.9 Hearing election.

As directed by Board order, each party shall inform the Board, in writing, whether it desires a hearing as prescribed in §§ 955.18 through 955.25, or in the alternative submission of its case on the record without a hearing as prescribed in § 955.12. If a hearing is elected, the election should state where and when the electing party desires the